

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Joel Larson,

Plaintiff,

v.

Citibank NA; and DOES 1-10, inclusive,

Defendants.

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: Civil Action No.: _____
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COMPLAINT

For this Complaint, the Plaintiff, Joel Larson, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of the Defendants' repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA").

2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. The Plaintiff, Joel Larson ("Plaintiff"), is an adult individual residing in Taos, New Mexico, and is a "person" as defined by 47 U.S.C.A. § 153(39).

4. Defendant Citibank NA ("Citibank"), is a New York business entity with an address of 399 Park Avenue, New York, New York 10043, and is a "person" as defined by 47 U.S.C.A. § 153(39).

5. Does 1-10 (the "Agents") are individual agents employed by Citibank and whose identities are currently unknown to the Plaintiff. One or more of the Agents may be joined as parties once their identities are disclosed through discovery.

6. Citibank at all times acted by and through one or more of the Agents.

FACTS

7. In or around June 2014, Citibank began calling Plaintiff's cellular telephone, number 575-XXX-8469, using an automated telephone dialing system ("ATDS") and/or by using an artificial or prerecorded voice.

8. When Plaintiff answered calls from Citibank he heard a prerecorded message instructing Plaintiff to call Citibank.

9. Plaintiff never provided his cellular telephone number to Citibank and never provided his consent to be called by Citibank.

10. Plaintiff called Citibank and a representative told Plaintiff that they were calling in an attempt to reach a Mr. Martinez, a person other than Plaintiff.

COUNT I

**VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.**

11. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

12. At all times mentioned herein and within the last year, Defendants called Plaintiff on his cellular telephone using an automatic telephone dialing system ("ATDS" or "Predictive Dialer") and/or by using a prerecorded or artificial voice.

13. The telephone number called by Defendants was assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

14. The calls from Defendants to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

15. Each of the aforementioned calls made by Defendants constitutes a violation of the TCPA.

16. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

17. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully prays that judgment be awarded in the Plaintiff's favor and against the Defendants as follows:

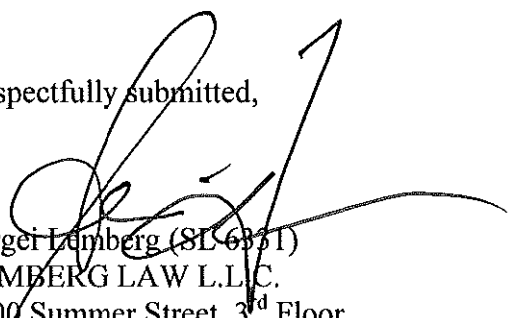
1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: July 24, 2014

Respectfully submitted,

By


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